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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/531,356	03/20/2000	Ki Il Kim	249/210	5751

167 7590 07/17/2003

FULBRIGHT AND JAWORSKI L L P
PATENT DOCKETING 29TH FLOOR
865 SOUTH FIGUEROA STREET
LOS ANGELES, CA 900172576

EXAMINER

APPIAH, CHARLES NANA

ART UNIT	PAPER NUMBER
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2682

DATE MAILED: 07/17/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/531,356

Applicant(s)

KIM, KI IL

Examiner

Charles Appiah

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-80 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-80 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) Z.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed April 28, 2003 have been fully considered but they are not persuasive.

With regard to applicant's argument that Kikinis and Erkilli are not prior art because the instant invention is entitled to the filing date of April 25, 1997 of the parent application now US. Patent No. 6,278,884, examiner asserts that the limitations of "means for selectively and wireless connecting to the internet, a replaceable memory card socket provided in said housing for selectively receiving a replaceable memory card, a microprocessor provided in said housing said microprocessor including means for selectively downloading data to said replaceable memory card from the internet when the cell phone is wireless connected to the internet..." are not disclosed in the parent application and as such Applicant's instant invention reciting the above features are not entitled to the filing date of April 25, 1997. It appears that Applicant's argument listing the elements and features are narrower than the features now being claimed in the instant application.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation for combining Kikinis and Erkilli can be found in the teaching of the references namely the capability of having a modular mobile communication terminal with the suggestion adding new functions to the communications device as taught by Erkilli in advantageously using the expansion card memory to store pictures in order to reduce the amount of memory needed in the host device.

In response to applicant's argument with regard to the supplemental secondary references, that there is no motivation to make the combination of references in addition to the combination of Kikinis and Erkilli, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In this case examiner maintains that in making the various supplemental combinations with references such as Schwartz, Purdy, Shamosh and Simkin, one of ordinary skill in the art would be using the cited features of each reference supplement the specific teaching missing in the combination of Kikinis and Erkilli as set forth in the rejections.

In response to applicant's argument that the secondary references of Schwartz, Purdy, Shamosh and Simkin are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned,

in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the references are pertinent for the teachings for which they are cited specifically as set forth in the rejections.

It appears Applicant's arguments are direct against the references individually, but it has been held that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In view of the above Kikinis and Erkilli are pertinent prior art and the rejections using the references in combination with other supplemental references are maintained as repeated below.

Claim Objections

2. Claims 52, 53, 55, 57, 59, 69, 70 and 71 are objected to because of the following informalities: It appears the word "telephonically" appearing in all the above claims should be changed to "telephonically" in order to correct an apparent typographical error. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-5, 7, 12, 13, 16-22, 24, and 48-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kikinis (6,243,59)** in view of **Erkkila et al. (6,219,560)**.

Regarding claims 1 and 51, Kikinis discloses a mobile entertainment and communication device, comprising: a housing (100) of a palm-held size, a cell-phone provided in the housing having means for selectively and wirelessly connecting to the Internet (standard telephone being adapted for browsing the Internet via interaction with proxy server, see col. 15, lines 1-5), a memory provided in the housing (computer having memory which may be of any types such as flash, random access (RAM), read-only (ROM) or similar type, or a combination of these, see col. 4, lines 54-59, col. 18, lines 39-60), a microprocessor provided in the housing (inherent feature of cellular phone engaged with battery pack adapter acting as a portable computer with Internet browsing capability, see col. 15, lines 10-21), with the microprocessor having means for selectively downloading data into memory from the Internet in a wireless manner (feature of modem unique data plug providing communication interface between unique circuitry in battery pack adapter and the cellular telephone utilizing the cellular telephone as a modem interface unit, see col. 15, lines 34-38), and means provided with the housing and operatively connected to the microprocessor for reproducing data from at least one of either the memory and the Internet (see col. 16, lines 38-61, col. 17, lines 8-15), and a battery mounted in the housing and operatively connected to and supplying power for operating the device (High Energy Density (HED) type battery, see col. 15, lines 34-50) and that random access memory connected to the microprocessor is provided for the purpose of storing data for the micro LCD as well as audio data from

the input microphone and that other types of memory such as cache memory, flash memory, etc., could be added (see col. 18, lines 43-50). Kikinis fails to teach an embodiment in which the mobile entertainment and communication device is of a palm-held size and comprise a cell-phone provided in the housing and a replaceable memory card socket provided in the housing for selectively receiving a replaceable memory card with substantially the entire card positioned within the housing.

Erkkila discloses a modular mobile communication system in which a mobile communications device is constructed to receive an expansion card (see abstract). According to Erkkila, the expansion card can be fitted into the host device through a connector socket in order to add new function in the host device to provide in addition to audio and text-based communication, visual communication (see col. 1, line 53 to col. 2, line 23), and that identification regarding information needed for controlling the expansion is read when the expansion card is connected to an expansion card connector socket in the communication device (see col. 2, lines 35-63). Erkkila teaches that the expansion card can be implemented to comply with the Miniature Card Standard and that it is easily inserted and removed from the host device and has a parallel bus for fast data transfer (see col. 5, line 59 to col. 6, line 47), and that the expansion card memory can be advantageously used to store pictures in order to reduce the amount of memory needed in the host device and thus reduce the price of the host device in the form of a mobile communication device (see col. 5, lines 46-50).

It would therefore have been obvious to one of ordinary skill in the art to implement the above the above teaching of Erkkila using a mobile communication

device equipped with an expansion card connection socket with the system of Kikinis in order to provide removable and adaptive memory means and thus reduce memory requirements of the mobile communication device and hence the price while providing optional functionalities such downloading images and sounds into the communication device.

Regarding claims 2 and 3 Kikinis further shows wherein the means for reproducing data includes a speaker for reproducing sounds (see col. 2, lines 62-66, col. 17, lines 9-15), and a display panel for displaying images (see col. 15, line 62 to col. 16, line 61).

Regarding claim 4, Kikinis shows a display such a micro LCD display for displaying Internet pages on the display of the adaptable cellular telephone (see col. 2, lines 44-58), reading on a display panel provided on the housing and connected to the microprocessor and battery to display data. Kikinis, however, fail to teach the display panel displaying explicitly information concerning the operational status of the cell phone.

However, the concept and advantages of being able to display information concerning the operational status of a cellular or mobile telephone is very well known and expected in the art and as such Official Notice is taken that it would have been obvious to one of ordinary skill in the art to provide for the displaying of information relating to the operational status of the communication device of Kikinis as modified by Erkkila in order to avail the user with desired status information such as remaining power level for the efficient usage of the device.

Regarding claim 5, Kikinis further shows the cell-phone and the inherent microprocessor having means for wirelessly downloading from the Internet, images relating to sounds simultaneously with the downloading of the sounds and for displaying the images on the display panel (see col. 5, line 59 to col. 6, line 12).

Regarding claim 7, the combination of Kikinis as modified by Erkkila shows (as taught by Erkkila) the replaceable memory card having a width of 2 inches or less (Miniature Card being small and about 38x3.3x3.5mm, see col. 5, line 67 to col. 6, line 1).

Regarding claim 12, Kikinis further shows wherein the means for reproducing data includes a speaker mounted in the housing that also comprises a speaker for the cellphone (feature of audio apparatus including a microphone and speaker, col. 2, lines 62-66, and sound player/recorder to play back audio recordings, see col. 17, lines 9-15).

Regarding claim 13, the combination of Kikinis as modified by Erkkila disclose everything as claimed, as applied to claim 1 above, but fail to disclose an earphone jack connected to the microprocessor for receiving a wire plug from an earphone set comprising the speaker means. However, Official Notice is taken that the concept of having an earphone jack for receiving a wire plug for an earphone set with a portable electronic device such as a mobile cellular telephone is very well known in the art for hands-free operations. Hence it would have been obvious to one of ordinary skill in the art at the time of the invention to provide an earphone jack for a separate earpiece set

for conveniently permitting users hands-free operation especially in situations when a user may be driving.

Regarding claim 16, Kikinis teaching of an I/O serial port to enable functions such as printing faxes to a local printer, inputting data to be transmitted to and via the Internet, connecting to another hand-held unit for sharing information as well as transferring information downloaded from the Internet to a fax machine, printer or other peripheral with a compatible connection, and utilizing the I/O port for retrieving information from a PC for the purpose of uploading to the Internet, see col. 17, lines 16-40, col. 19, lines 1-7), meets the limitation wherein a jack is provided in the housing and connected to the microprocessor for selective hardwire connection of the microprocessor to a computer for downloading and uploading the data between the computer and the replaceable memory card in the combination of Kikinis and Erkkila.

Regarding claims 17-19, the combination of Kikinis as modified by Erkkila shows (as taught by Erkkila), by the card being easily inserted and removed from the host device without having to switch off the power of the host device (see col. 6, lines 11-15), inherently read on a latching device on the housing for selectively latching the memory card in the replaceable memory card socket, including a pin for engaging a hole in the replaceable memory card and the replaceable memory card having a hole for facilitating removal of the card from the socket.

Regarding claim 20, Kikinis further discloses a memory permanently connected to the microprocessor for selectively recording data (see col. 18, lines 39-60).

Claim 21 is rejected for the same reasons as set forth in the rejection of claims 1 and 16 above.

Regarding claim 22, Kikinis further shows a microphone (203) also powered by the battery (see Fig. 10, col. 17, lines 8-15).

Regarding claim 24, the combination of Kikinis as modified by Erkkila shows (as taught by Erkkila) the replaceable memory card having a width of 2 inches or less (Miniature Card being small and about 38x3.3x3.5mm, see col. 5, line 67 to col. 6, line 1).

Claims 48-50 are rejected for the same reasons as set forth in the rejection of claims 17-19 above.

5. Claims 6, 8-11, 23, 25, 26, 27, and 28 rejected under 35 U.S.C. 103(a) as being unpatentable over **Kikinis** and **Erkkila et al** as applied to claims 1 and 21 above, and further in view of **Schwartz et al. (5,894,597)**.

Regarding claims 6, 8-11, 23 and 25-28 Kikinis as illustrated in Figures 10 and 11, shows the housing having a width for being held in a palm of an adult hand. But the combination of Kikinis and Erkkila fails to show that the replaceable memory card socket extends for substantially the entire width of the housing, or is provided on the side of the housing or extends substantially the entire width between the walls of the housing and that the replaceable memory card socket is of a thickness and is provided with means for accepting the replaceable memory cards of different memory capacities.

Schwartz discloses a communication device with a slot capable of accepting different sized cards (see Fig. 1). According to Schwartz a large card can be inserted

into slot 110, which substantially extends along the entire width of the housing while a chip card can be accommodated on chip card support mounted on door 105 and that the invention has an application for any subscriber card such as memory cards (see col. 2, lines 15-48), thus suggesting the capability of accommodating multiple-sized cards which will inherently have different memory capacities.

It would therefore have been obvious to one of ordinary skill in the art to combine the teaching of Schwartz by providing for a card slot capable of receiving different sized cards in the system of Kikinis and Erkkila in order to provide for different memory needs of subscribers.

6. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kikinis and Erkkila et al** as applied to claim 21 above, and further in view of **Hadley et al. (5,243,640)**.

Regarding claim 29, Kikinis shows that the modified cellular telephone is capable of being used as a telephone and as a link between to a wide area network such as the Internet (54-61). The combination of Kikinis and Erkkila fail to show that the microprocessor includes means for automatically interrupting the audio data being reproduced from the replaceable memory card upon activation of the cellular telephone for making or receiving a telephone call.

Hadley teaches an integrated cellular telephone and vehicular audio system which includes an interface that arbitrates between program audio signals and the phone audio signals such that when a call is not in progress and both the program audio source and the telephone are both in use, both the program audio signal and the

phone audio signals are both selected simultaneously, but when a call is in progress only the telephone audio signals are selected (see col. 1, line 50 to col. 2, line 6, col. 3, lines 10-54 and col. 6, lines 49-66).

It would therefore have been obvious to one of ordinary skill in the art to provide the above teaching of Hadley with the system of Kikinis and Erkkila in order to ensure the prioritization of phone calls especially in emergency situations.

7. Claims 30, 31, 32, 33, 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kikinis and Erkkila et al** as applied to claims 1 and 21 above, and further in view of **Purdy et al. (5,726,660)**.

Regarding claims 30-33, Erkkila shows a digital camera realized on a Miniature Card and connected to a microprocessor or a digital signal processor and inherently to the battery (see figs. 5-6, col. 6, lines 16-53), means for activating the camera for capturing images in view of the housing (see col. 8, lines 34-53), as well as memory means for storing the images captured by the camera (see col. 5, lines 46-59, col. 6, lines 54-63) and further suggests the capability of the cell-phone being activated to communicate wirelessly with a remotely located telephone by inherently dialing the number of the remotely located telephone (RF part 59, typical of a mobile communication device for connecting the mobile communication device to a telecommunication network via the radio path, col. 6, lines 33-43). The combination of Kikinis and Erkkila fail to disclose means for selectively transmitting images or stored images from the camera to the remotely located telephone or the Internet when the remotely located telephone and the cellphone are telephonically connected, and means

for receiving sounds, and the cellphone also wirelessly communicating the sounds to the remotely located telephone.

In an analogous field of endeavor, Purdy discloses (with reference to FIG. 4), a hand held portable information recording and communication device for communicating with a remotely located telephone (PDU 10, FIG. 2), comprising a camera (12), a microphone (14) and a cellular telephone (see col. 2, lines 48-50), electrically connected and mounted in a housing of a size and weight for being hand held by a person (PDU 10 is hand held and portable), a battery means in the housing for supplying electrical power to the camera and the cellular telephone (see col. 3, lines 58-60), means for activating the camera, microphone and the cellular telephone (see col. 4, lines 5-10), for capturing images and sounds within a range of the housing (see col. 4, lines 17-25), and memory means in the housing for selectively storing the images captured by the camera and sounds captured by the microphone (see col. 3, lines 10-13, and lines 47-53). Purdy further disclose means for activating the cellular telephone for wirelessly transmitting the images and sounds from the camera and microphone to a remote location (see col.3, lines 18-25), and means for selectively operating the means for selectively activating the camera, microphone and cellular telephone, the memory means as well as the audio recording means (see FIG. 5, col. 4, lines 4-10), and further switch means for selectively operating the means for selectively activating the camera, the microphone and the cellular telephone, the memory means (inherent feature of activation of audio and audio link), for selectively causing the stored images to be

transmitted through activation of the communication link (see col. 4, lines 45-47), microphone to the remotely located telephone.

It would therefore have been obvious to one of ordinary skill in the art to combine the above teaching of Purdy by providing for the wireless transmission of captured images to a remote locate with the system of Kikinis and Erkkila in order to provide the option of selectively sending images over communication medium such as the Internet for subscribers.

Regarding claims 44 and 45, Erkkila shows that the camera is an electronic digital camera (see col. 20-27), but the combination of Kikinis, Erkkila and Purdy fail to show an embodiment in which the camera is an infrared camera. However, it would have been obvious to one of ordinary skill in the art to use any type of camera subject to system constraints and compatibility in implementing the system of Kikinis as modified by Erkkila and Purdy for providing desired multimedia communication functions to users.

8. Claims 34, 35-39, 40, 41, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kikinis and Erkkila** as modified by **Purdy et al** as applied to claim 30 above, and further in view of **Shamosh et al. (5,144,661)**.

Regarding claim 34, 35, 37, 39, and 40, the combination of Kikinis, Erkkila and Purdy do not teach sensor means mounted in the housing for detecting sound or movement near the housing, with the means for activating the camera being in communication with and responsive to the sensor means for automatically activating the camera upon the occurrence of the detected sound or movement and means in the

housing for receiving the sounds and being activated when the sensor means detects a sound or motion, the cellphone also wireless transmitting the sounds to the remotely located telephone when the sensor means detects the sound movement and means on the housing for selectively arming the sensor means.

Shamosh discloses (with reference to FIG. 3), a security protection system that includes a camera, a microphone and a cellular telephone (32), electrically connected in a housing (60), with a battery means in the housing for supplying electrical power to the camera and the cellular telephone (38), means for activating the camera, microphone and the cellular telephone (sequence time controller of FIG. 1), for capturing images and sounds within a range of the housing (see col. 1, line 56 to col. 2, line 14), alarm sensor means (12) mounted in the housing for detecting a sound or a movement within a predetermined range (see col. 5, lines 16-20), selectively arming the alarm sensor means for then automatically operating the means for activating the camera, microphone and activating the microphone when the sensor means detects a sound or movement (see col. 5, line 16 to col. 6, line 25) and memory means in the housing for selectively storing the images captured by the camera and sounds captured by the microphone (see col. 2, lines 15-24, col. 3, line 61 to col. 4, line 10). Shamosh further disclose means (modem) for transmitting converted signals to a base unit (34) through radio frequency transmission means (col. 4, lines 11-28) and means for selectively operating the means for selectively activating the camera, microphone and cellular telephone, the memory means as well as the audio recording means (see col. 3, lines 28-41), and a means for automatically using the cellular telephone to transmit the stored

digitized video/audio signals to a base or remote location (see col. 1, lines 6-10, col. 6, lines 25-35). Shamosh's video/audio recorder unit reads on the claimed audio recorder mounted in the housing for and having means for selectively recording sounds within range of the housing (col. 3, lines 36-49).

It would therefore have been obvious to one of ordinary skill in the art to combine the teaching of Purdy with the system of Shamosh for the benefit of using a portable unit with reduced circuit components and hence reduced manufacturing costs for providing security and alarm functionality to subscribers especially in emergency situations.

Regarding claim 36, Shamosh shows the sensor means includes means for sensing at least one of impact, smoke, poisonous gas and heat (see col. 3, lines 1-5, col. 5, lines 13-20, col. 8, lines 6-24). Hence it would have been obvious to one of ordinary skill in the art to provide the above teaching of Shamosh with the system of Kikinis, Erkkila and Purdy in order to provide a life-saving crime-reducing feature through real time detection of alarm situations.

Regarding claim 38, Kikinis's teaching of an I/O serial port to enable functions such as printing faxes to a local printer, inputting data to be transmitted to and via the Internet, connecting to another hand-held unit for sharing information as well as transferring information downloaded from the Internet to a fax machine, printer or other peripheral with a compatible connection, and utilizing the I/O port for retrieving information from a PC for the purpose of uploading to the Internet, see col. 17, lines 16-

40, col. 19, lines 1-7), meets the limitation of a jack connection for directly connecting the memory to a computer for downloading the stored images from the memory.

Regarding claim 41, Shamosh further shows manual activation means including a plurality of manual activation pads to be used in initiating operations (see col. 3, lines 5-11), suggesting the capability of switch means for manually activating desired functions such as the camera and the cellular telephone for both capturing and transmitting images in the combined system of Kikinis, Erkkila, Purdy and Shamosh.

Regarding claims 42 and 43, the combination of Kikinis, Erkkila, Purdy and Shamosh shows as taught by Shamosh the generation of a signal by the sensor means with the sensing of an alarm condition (see col. 1, lines 56-59), but fails to explicitly teach wherein the activating means also activates an audible alarm mounted in the housing. However, the use of audible means with personal alarm systems is very well known in the art and as such examiner takes Official Notice that it would have been obvious to one of ordinary skill to include an audible alarm means with the system of Kikinis, Erkkila, Purdy and Shamosh in order to provide immediate help in emergency situations while still making remote response possible.

9. Claim 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kikinis, and Erkkila et al** as applied to claims 1 and 21 above, and further in view of **Simkin (5,712,619)**.

Regarding claims 46 and 47, the combination of Kikinis and Erkkila fail to disclose Global Positioning system means in the housing and connected to the

microprocessor for transmitting the location of the device by the cellphone to the remotely located telephone.

Simkin teaches a GPS personal alarm system that provides personal alarm in the event of an assault, medical emergency or any other intrusive wrong-doing by utilizing GPS technology and cellular telephone technology to transmit a user's positional information to a monitoring station for providing exact location or position information to the proper authorities for appropriate emergency response (see abstract, Fig. 5, col. 2, line s 6-62 and col. 5, lines 1-17).

It would therefore have been obvious to one of ordinary skill in the art to combine the above teaching of Murphy by providing location-determining capability with the system of Kikinis and Erkkila in order to facilitate and speed-up the provision of needed help especially in emergency and life-threatening situations.

Double Patenting

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Claims 52-80 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,278,884. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of claims 52-80 are broad enough to be encompassed in scope by the teachings of claims 1-17 of the patent and as such it would have been obvious to one of ordinary skill in the art to implement the instant invention using the teachings of claims 1-17 of the patent in order to have a truly portable mobile entertainment and communication device capable of providing bi-directional wireless data and sound communications.

Allowable Subject Matter

12. Claims 52-80 would be allowable if a terminal disclaimer is timely filed to overcome the double patenting rejections set forth above.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sheffer et al. (5,568,535) discloses a cellular phone alarm system for an enclosed area.

Fraley (5,793,419) discloses a personal audio/video surveillance system.

Steil et al. (5,257,007) teaches a portable security system.

Hess (6,049,273) discloses a cordless remote alarm transmission apparatus.

Cash (5,729,197) discloses an automatic self-triggering alarm processing system.

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Appiah whose telephone number is 703 305-4772. The examiner can normally be reached on M-F 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 703 305-6739. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872-9314 for regular communications and 703 308-6296 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 306-0377.

Charles Appiah
July 13, 2003


CHARLES APPIAH
PRIMARY EXAMINER